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Air Force Officers Divided Over Immunity for Suspected Spy

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Shortly after the Strategic Air Command decided on May 22 to push ahead with prosecution of 2nd Lt. Christopher M. Cooke on espionage charges, a lawyer from the Pentagon recalled chatting about the controversial case with a SAC officer.

"You don't have to keep your word to a spy," the lawyer, Maj. Robert T. Mounts of the Air Force judge advocate general's office, said he was told.

Mounts, who with his superiors disagreed with SAC's decision, testified yesterday that their misgivings were conveyed to SAC headquarters in Nebraska, without success. At one point, Mounts said he prepared a memo stating his belief that the Air Force was bound to honor repeated promises not to prosecute Cooke if he made a full disclosure about his contacts with Soviet diplomats and then demonstrated his candor by taking a polygraph test.

"The Air Force got what it bargained for, and the agreement is binding," Mounts wrote. He said he didn't know just what SAC's top generals were told, but the Air Force's No. 1 legal officer, Maj. Gen. Thomas B. Bruton, the judge advocate general, clearly conveyed his reservations.

"Gen. Bruton told me he had pointed out certain problems to SAC representatives," Mounts said at preliminary court-martial proceedings against Cooke that began at Andrews Air Force Base this week. He said the difficulties included the fact that Cooke's interrogators from the Air Force Office of Special Investigations (OSI) were not likely to favor a prosecution since they had repeatedly promised Cooke immunity on SAC's behalf.

Despite that, Cooke's chief defense counsel, F. Lee Bailey, charged that SAC's chief legal officer, Brig. Gen. C. Claude Teagarden, attempted to solve the problems with "gross fabrications" that he made up last June, more than a week after Cooke had been formally charged with violating Air Force regulations.

The main "fabrication," Bailey asserted, was Teagarden's claim that Cooke had left himself open to prosecution by not telling the truth to OSI investigators in his first statement to them May 7.

OSI's chief investigator in the case, Lt. Col. Jerome Hoffman, said that Cooke first started cooperating May 9, after Hoffman explicitly offered him immunity that morning with the understanding that SAC had approved it.

Tape recordings of the session with Cooke conducted by Hoffman and a colleague from OSI were played in the tiny courtroom yesterday. The recordings show that Hoffman first outlined the proposed deal, including an honorable discharge, to the suspect. Then Hoffman tried hard to sell it.

He told Cooke, 26, that if he would take a polygraph test and no deception were indicated it was the "SAC position" that he would be given an honorable discharge without any unfavorable connotations.

Cooke, who had been deputy commander of an Air Force Titan missile crew in Kansas, kept expressing his reluctance to go along with the proposal. At that point he had no lawyer and, although he'd been picked up May 5, he had yet to be advised of his rights.

Hoffman assured him at one point that the offer of an honorable discharge would hold "even if you have been a— deep in espionage, even if you've compromised the entire missile system That's a hell of an offer they [SAC officials] are making."

Air Force prosecutor Barton L. Spillman

got Hoffman to admit on cross-examination that he had yet to speak with Teagarden or any other SAC official before making the offer. But Hoffman testified that it had been conveyed to him as SAC's position by his superiors in OSI and that Teagarden confirmed it in telephone conversations with him later that day.

During the May 9 meeting, Cooke said that Hoffman seemed to be saying that he could "come clean" and go home even if he'd been involved in Soviet espionage for 25 years.

"That's exactly what I'm saying," Hoffman responded, "You hear but you don't understand. They have repeatedly told you they don't give a rat's a-- about you. They want to know if there's been damage, and to what extent, on their ability to wage war."

The next day, May 10, Gen. Richard Ellis, then SAC's commander in chief, wired his superiors in the Pentagon, including the chairman of the joint chiefs:

"I'm advised we have no confession we can legally use From this point on, interrogation of Cooke should concentrate on obtaining as strong and prosecutable a legal case as possible."